

CITY OF WOLVERHAMPTON COUNCIL	Cabinet Meeting 20 February 2018
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Report title	Shared Ownership Lease and Policies	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Peter Bilson, City Assets and Housing	
Corporate Plan priority	People - Stronger Communities	
Key decision	Yes	
In forward plan	Yes	
Wards affected	(All Wards)	
Accountable Director	Tim Johnson, Strategic Director, Place	
Originating service	Housing	
Accountable employee	Jane Trethewey Tel Email	Service Lead Housing Development Tel: 01902 555583 jane.trethewey@wolverhampton.gov.uk
Report to be/has been considered by	Directorate Leadership Team Strategic Executive Board	8 January 2018 6 February 2018

Recommendations for decision:

The Cabinet is recommended to approve:

1. The use of the suite of policies appended to this report, with a lease developed to support the sale of homes by the City of Wolverhampton Council on a Shared Ownership basis.
2. The delegation of authority to the Cabinet Member for City Assets and Housing in consultation with the Director of Governance for any variation to the Shared Ownership lease or suite of policies, as required from time to time as a result of review.
3. The purchase of properties on some WV Living developments for onward sale to residents as Shared Ownership housing.
4. The use of Wolverhampton Homes leasehold management services to manage the Shared Ownership properties acquired, applying the policies appended to this report.

Recommendations for noting:

The Cabinet is recommended to note:

1. The intention that WV Living's Sales and Marketing Agent will include these homes in the marketing of the wider market sales offer on WV Living sites, with the sale of each unit from WV Living to the Council timed to coincide with the onward sale to the owner occupier on a 'back-to-back' basis.

1.0 Purpose

- 1.1 This report seeks approval for a suite of new policies to support the sale of Shared Ownership properties by the Council. It further provides information on the arrangements proposed for the sale and management of Shared Ownership homes being developed on WV Living housing sites.

2.0 Background

- 2.1 The Council has considered the affordability of homes as a key concern. In setting up WV Living the Council has sought to balance the viability of developments alongside the need to create communities where homes are available to a range of household incomes. The provision of full 25% affordable housing, even where sites are unviable, has formed part of this approach. The mix of different unit sizes and types, in both sale and rental market housing offered is intended to match different household spending profiles.
- 2.2 A further option is to provide Shared Ownership tenure, allowing households to have the security and opportunity for capital gain that home ownership offers, alongside the affordability of not requiring a deposit to secure their home. Occupiers have leasehold ownership of their home, with options to purchase 25% or 50% of the value at the outset, whilst paying rent on the remainder. They have the option to 'staircase' up to a larger share of ownership, or outright ownership when their circumstances permit.
- 2.3 The Cabinet (Resources) Panel meeting of 27 June 2017 approved the signing of a grant agreement with the Homes and Communities Agency (HCA), now Homes England (HE), for grant funding of £300,000 for the delivery of ten shared ownership homes from the 2016-2021 Shared Ownership and Affordable Homes Programme, awarded for the development of shared ownership units across residential development schemes in the city. It further delegated authority to the Cabinet Member for City Assets and Housing in consultation with the Strategic Director of Housing to agree details of their delivery.
- 2.4 It is now proposed that Shared Ownership homes will be purchased by the Council on some WV Living sites, applying the subsidy provided by HE's grant, and then sold on to the shared owner. It is further proposed that the shared ownership properties will be managed by Wolverhampton Homes, who have expertise in managing residential leasehold property across the city.

3.0 Progress and Options

- 3.1 To support the sale and management of this new tenure for the city, a Shared Ownership Lease, and a suite of policies have been prepared.
- 3.2 The documents supporting Shared Ownership, appended to this report, are as follows:
- Shared Ownership Additional Management Procedure
 - Shared Ownership Assignment (Resale) Procedure
 - Shared Ownership Re-mortgages and Further Advances Procedure
 - Shared Ownership Rent Arrears and Forfeiture Procedure

- Shared Ownership Staircasing Procedure
- Shared Ownership Sub-letting Procedure

- 3.3 The HCA (now Homes England, HE) produced a model form lease which the Council intends to adopt. It is a condition of the grant funding that leases must, as a minimum, contain “fundamental clauses”. The intention is to provide certainty and to ensure that mortgage companies are willing to provide advances.
- 3.4 There are some variations to standard Registered Provider policies, arising from the fact that Councils are regulated differently from Registered Providers, so for example approaches to handling rent arrears and repossession must be handled through the courts differently. It is also evident that HE’s standard lease for Shared Ownership was not established for use by Councils, and discussions are still in hand with HE’s solicitors to seek to vary the lease to make it fit Local Government legislation. These amendments do not affect the fundamental clauses. Key elements of the policies and the lease are set out in the paragraphs below.
- 3.5 **Additional Management Procedure** – Attached at Appendix 1, this sets out that the Shared Ownership leases will be subject to an annual rent review, makes clear that structural alterations and improvements of Shared Ownership stock are subject to consent, other than minor internal improvements, sets out a requirement for six-monthly external property inspections, and provides for the handling of complaints through the First Tier Tribunal (Property Chamber).
- 3.6 **Assignment (Resale) Procedure** – Attached at Appendix 2, the resale of Shared Ownership homes can create difficulties for home-owners, due to the non-standard nature of the ownership. This can in turn become a disincentive to buy in the first place. In order to support shared owners wishing to sell and move on this procedure provides for Wolverhampton Homes, acting for the Council, to nominate a prospective buyer. A RICS valuation must be undertaken to determine the maximum price the share can be sold for. This procedure details the process that WH will follow when a shared owner wishes to assign (sell) their share. If WH is unsuccessful in nominating a buyer, the share may then be promoted for sale by the shared owner via an estate agent or by other means. Staircasing and selling simultaneously is also an option.
- 3.7 **Re-mortgages and further advances procedure** – Attached at Appendix 3. If a shared owner wishes to change their mortgage Wolverhampton Homes will need to approve the new mortgage. This is necessary to minimise the risk of shared owners over stretching themselves financially and having their homes repossessed due to mortgage or rent arrears.
- 3.8 **Rent arrears and forfeiture procedure** – Attached at Appendix 4, this procedure details Wolverhampton Homes approach to managing payments in the recovery of shared ownership rent arrears, on behalf of the Council. The route for arrears recovery and repossession can be either through a County Court Judgement, or through Forfeiture, which would extinguish the lease. If the shared owner has a mortgage secured on the property, the lender will often protect their interest in the property by clearing the debt on the mortgagor’s behalf, adding this to the mortgage debt.

- 3.9 **Staircasing procedure** – Attached at Appendix 5. Under the terms of the shared ownership lease shared owners may buy more shares to increase the percentage of their home that they own. This is called staircasing. All leases allow the shared owner to staircase up to a 100%. The Council's lease allows shared owners to staircase in tranches of a minimum of 10% and a maximum of 25%. The Council is keen that shared owners should be enabled to staircase to 100% in one purchase, if they have the funds to do so. However, Homes England (HE) has advised that their standard lease does not permit this, for legal reasons relating to leasehold law. Discussions continue on this point of law, as it is the Council's legal advice that the legislation is different for Local Authorities, and this leasehold law issue does not apply. The lease and the procedure will be updated in the event of a changed position on this.
- 3.10 **Sub-letting procedure** - Attached at Appendix 6. Sub-letting is expressly not permitted in shared ownership leases. HE's Capital Funding Guide advises that shared ownership leases must prohibit sub-letting by the shared owner, to protect public funds and ensure applicants are not entering shared ownership for commercial gain. This prevents the leaseholder having the right to sub-let, but allows Registered Providers to agree to sub-letting arrangements if they choose to do so in exceptional circumstances, on a case-by-case basis. An example of where this may be appropriate would be a sub-letting request from a serving member of the Armed Forces whose tour of duty requires them to serve away from the area in which they live for a fixed period.
- 3.11 **Lease** – The lease is granted for a term of 125 years, at a premium based on the percentage share purchased. A yearly rent (subject to review provisions) is paid on the unacquired share. The lease contains detailed provisions for the procedure to be followed if the tenant wishes to staircase. As referenced above, the lease is based on the HE model and will contain all of the "fundamental clauses". Some minor amendments may be made to accommodate the fact that the landlord is a local authority.

4.0 Evaluation of alternative options

- 4.1 The Council could choose to remove the option of Shared Ownership from developments in the city, and provide only Affordable Rent as an alternative to market sale or market rent. However, providing a menu of options for households to choose from, supported by HE grant funding, is regarded as a beneficial way to make home-ownership available to those who might otherwise overstretch themselves to make a purchase. Providing this alternative tenure also creates a more economically balanced community across new housing schemes.
- 4.2 The performance of the Shared Ownership units alongside WV Living's outright sales and rental options will be monitored on Phase 1 of the company's development programme. Should this product prove to be popular in the market, and support the success of schemes, consideration can be given to the addition of further Shared Ownership homes on later phases of development.
- 4.3 Homes England has introduced a further funding stream, called Rent to Buy. This supports residents by grant funding a property where a landlord lets on a rental basis,

allowing the tenants to build up a good credit record by their regular rental payments, whilst potentially improving their household income at the same time. The resident can then choose to buy the property they occupy at a discounted rent. If they are unable to do this, the property can revert to an Affordable Rent tenancy. The Council can choose to explore this option as an alternative to Shared Ownership in future bidding rounds. However, Shared Ownership is a better publicised and understood product, and so is preferred for its 'saleability' in this first round of affordable home ownership.

5.0 Reasons for decision

- 5.1 Approval of the suite of Shared Ownership policies appended to this report will provide Wolverhampton Homes with the means by which to manage the properties to be added into the HRA stock and sold under this tenure. This will support the commitment of the grant funding received from HE to fund the development of these properties, and will also support further grant funding for additional homes in future.
- 5.2 It will also provide the certainty to prospective purchasers that they understand the way in which their properties will be sold, managed, purchased outright, or re-sold as necessary. This is essential for the effective marketing of these homes to the public.

6.0 Financial implications

- 6.1 The purchase of homes by the council from WV Living for Shared Ownership sale will be met from the HRA capital new build budget for WV Living units of £16.9 million, due to be approved by Cabinet on 21 February 2018. Funding will include HE grant of £300,000 equating to £30,000 per unit. The HRA will receive the leasehold rental income and the capital receipt from further staircasing. The rent is based on a formula stipulated in the HE lease.
- 6.2 The Shared Ownership lease will be managed alongside other leases by Wolverhampton Homes by their Home Sales and Leases Team in return for a property management fee. The shared owner is responsible for repairs and maintenance of the property.
[JM/29012018/V]

7.0 Legal implications

- 7.1 The suite of Shared Ownership policies and procedures, and the Shared Ownership lease, have all been prepared with the support and advice of the Council's legal team. This has been done to ensure that the regulations affecting local authorities are reflected into these documents, as these differ from the typical Registered Provider regulations which apply to the bulk of shared ownership nationally. An opinion from Counsel will be obtained to ensure that there are no further legal implications arising from the grant of a shared ownership lease by a local authority. Further legal issues may arise during the conveyancing process which will be advised upon at the appropriate time.
[30012018/DC/A]

8.0 Equalities implications

- 8.1 The provision of a more affordable property purchase option means that residents with lower incomes are more likely to be able to access home ownership, without over-extending themselves financially. This will mean that households with single wage-earners, or where only reduced hours can be worked for a variety of reasons, will be able to benefit from the security and capital gains to be obtained from home ownership. The availability of range of purchase options will provide customers with choice and affordability, which will be beneficial for the company's relationship with its customers.

9.0 Environmental implications

- 9.1 There are no direct impacts on the environment arising from this report. However, there are potentially significant benefits to the community from the addition of a more affordable home ownership option. This will provide the opportunity of affordable home ownership to a wider cohort of the Wolverhampton population.

10.0 Human resources implications

- 10.1 Shared Ownership management services will be resourced from existing Wolverhampton Homes leasehold management staff. The number of Shared Ownership Homes planned in Phase 1 is ten in total, with a further 19 planned on the Heath Town estate. It is therefore anticipated that this can be managed within existing resources.
- 10.2 The marketing and sale of the Shared Ownership units is planned to be delivered by the WV Living Sales and Marketing Agent, as these homes will be sold alongside WV Living's market sale units.

11.0 Corporate Landlord implications

- 11.1 Corporate Landlord advice will be sought in the process of purchasing the units developed for Shared Ownership on WV Living sites by the Council's HRA.

12.0 Schedule of background papers

- 12.1 Cabinet (Resources) Panel 27 June 2017, Disposal of the Former Wednesfield School, Lakefield Road, Wolverhampton

13.0 Appendices

Appendix 1: Additional Management Procedure

Appendix 2: Assignment (Resale) Procedure

Appendix 3: Re-mortgages and further advances procedure

Appendix 4: Rent arrears and forfeiture procedure

Appendix 5: Staircasing procedure

Appendix 6: Sub-letting procedure